

LABOUR DEPARTMENT

The 25th May, 1971

No. 5480-4Lab-71/17364.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Krishna Power Loom Factory (P) Ltd; Faridabad.

**BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK**

Reference No. 4 of 1971

between

**SHRI HARI CHAND C/O HARI NARAIN GORA, SECRETARY TEXTILE ASSOCIATION 1A/90,
N.I.T. FARIDABAD AND THE MANAGEMENT OF M/S KRISHNA POWER LOOM FACTORY
(P) LTD; FARIDABAD**

Present.—

Shri Hari Narain Gora, for the workmen.

Shri Jaswant Singh, for the management.

AWARD

Shri Hari Chand was working as a weaver in M/s. Krishna Power Loom Factory (P) Ltd., Faridabad. According to the workman his name was struck off from the muster rolls on 12th November, 1969 without any reason or giving him any opportunity to show cause. He served a notice of demand on the management on 2nd September, 1970 claiming re-instatement but the management did not pay any heed. This gave rise to an industrial dispute. Accordingly, the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/343-A-70 dated 29th December, 1970.

**"Whether the termination of services of Shri Hari Chand, Weaver was justified and in order.
If not; to what relief is he entitled ?.**

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The management have taken a preliminary objection that there was no industrial dispute between the parties at all because the management never discharged, dismissed, retrenched or otherwise terminated the services of Shri Hari Chand. On the other hand he himself abandoned his service and, therefore, the provision of Section 2-A of the Industrial Disputes Act, 1947 were not at all attracted and the reference is illegal because of Shri Hari Chand has not been espoused by the other workman serving under the management. The pleadings of the parties gave rise to the following issues.

1. Whether the workman himself abandoned his service and, therefore, no industrial dispute between the parties ?.
2. Whether the workman gave a demand notice dated 2nd September, 1970. If not; what is its effect ?.
3. If the above issues are found in favour of the workman whether the termination of services of Shri Hari Chand Weaver was justified and in order. If not; to what relief is he entitled ?.

Issue No. 1.—Shri Devi Lal, Manager of the respondent concern has appeared as a witness on behalf of the management and has stated that Shri Hari Chand workman performed his duties only upto 7th November, 1969. He stated that 8th November, 1969 was the rest day of the workman and on 9th November, 1969 the factory was closed and from 10th November, 1969 onwards Shri Hari Chand did not attend and he has shown to be absent and no application for leave or any intimation was received from him. The manager gave his evidence after referring to the entries in the attendance register and further stated that on 7th December, 1969, the workman appeared and received Rs. 24.85 on account of his earned wages for 7 days in the month of November and affixed his signature in the Payment of Wages register acknowledging the receipt of the said amount.

The story set up by the workman in his claim statement is that he was an old workman of the respondent concern and was always demanding his legal and reasonable benefits from the management but the management did not like his genuine demands and for this reason wanted to get rid of him. It is alleged that on 12th November, 1969 the management verbally told him that his services had been terminated thereafter the workman continued approaching the management for re-instatement but the management finally refused to re-instate him and then a notice of demand was served on the management on 2nd September, 1970.

It is not at all clear why the workman waited for almost 10 months for just giving his demand notice. Further if the version of the workman is true that his services were verbally terminated on 12th November, 1969, it would mean that he was on duty until 11th November, 1969 but the workman admits that he received a sum of Rs. 24.85 on account of his earned wages for 7 days. It is not clear why the workman accepted only 7 days wages if according to him he was actually in the service of the respondent upto 11th November, 1969. The workman in cross-examination explained that he accepted 7 days wages only because he was badly in need of money. If the workman was really starving and was forced to accept 7 days wages only although he had worked for 11 days he would have certainly lodged a protest and demanded the balance of the wages but we find that the workman did nothing of the sort. The workman is not an ignorant type who is not aware of his rights. The workman himself states in his claim statement that he is an old workman of the respondent concern and the management was not happy with him because he was always demanding his genuine rights. It is not understood why the workman did not press his alleged genuine claim of 4 days wages and why he had to wait for almost 10 months for serving a notice of demand for his re-instatement.

The version of the management that the workman absented himself from duty from 8th November, 1969 onwards is corroborated by the entries in the attendance register and also by the fact that the workman accepted 7 days wages without any protest and did not even make a demand for his remaining wages. The delay in serving the notice of demand also shows that the workman was not at all keen to continue in the service of the management any longer. In case the management had wrongfully terminated his service and he was un-employed, he would have certainly taken steps for his re-instatement earlier.

All the circumstances of the case show that, the version of the management that the workman himself left the service is correct and the version of the workman that his services were wrongfully terminated by the management on 12th November, 1969 is incorrect. I find this issue in favour of the management.

Issue No. 2.—The fact that the workman did serve a notice of demand, i. e., 2nd September, 1970 is proved by the letters which were issued by the Labour Officer-cum-Conciliation Officer where the copy of the demand notice, dated 2nd September, 1970 was received by him. I find this issue in favour of the workman.

Issue No. 1.—In view of my finding on issue No. 1, this issue does not arise.

The workman is not entitled to any relief, I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana,
Rohtak.

Dated 15th April, 1971

No. 892, dated Rohtak, the 18th May, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana,
Rohtak.